

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

## GARNETT WILLIAMS,

Plaintiff,

V.

RON FRAKER, *et al.*,

## Defendants.

CASE NO. C09-5474RBL

REPORT AND  
RECOMMENDATION TO  
DISMISS COMPLAINT  
WITHOUT PREJUDICE

Noted for November 27, 2009

This case has been referred to Magistrate Judge J. Richard Creatura pursuant to 28 U.S.C.

§ 636(b)(1)(B). This matter comes before the court due to plaintiff's failure to provide the necessary forms to the clerk to conduct service of the complaint. This court recommends that this case be dismissed without prejudice because of plaintiff's failure to comply with court rules and a court order.

## BACKGROUND

Plaintiff Garnett Williams has filed a complaint alleging that his civil and constitutional rights were violated while incarcerated at the Clallam Bay Corrections Center. Specifically, Mr.

1 Williams alleges he was unfairly treated when his cell was searched and property was  
2 confiscated and when he was placed in segregated housing following an incident in which he  
3 was found praying in the kitchen area of the prison.

4 After granting plaintiff's application to proceed *in forma pauperis*, the undersigned  
5 directed the U.S. Marshals to conduct service, but only after plaintiff provided necessary forms  
6 and copies of his complaint. See Doc. 8. Plaintiff was directed to supply these forms no later  
7 than October 8, 2009. To date, the clerk has not received any of the U.S. Marshals' forms  
8 needed to provide the U.S. Marshal the documents needed to effect service in this matter.

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10 DISCUSSION

11 "If the plaintiff fails to prosecute or to comply with these rules or a court order, a  
12 defendant may move to dismiss the action or any claim against it." Fed. R. Civ. P. 41(b).

13 Judicial resources require a plaintiff that is granted *in forma pauperis* status to supply the  
14 necessary copies and forms needed to conduct service. Plaintiff has been provided more than  
15 thirty (30) days to provide the required forms, yet the clerk has not received the completed  
16 documents.

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18 CONCLUSION

19 Based on the foregoing, the Court should dismiss this matter without prejudice for lack of  
20 prosecution.

21 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil  
22 Procedure, the parties shall have ten (10) days from service of this Report to file written  
23 objections. *See also* Fed.R.Civ.P. 6. Failure to file objections will result in a waiver of those  
24 objections for purposes of appeal. Thomas v. Arn, 474 U.S. 140 (1985). Accommodating the  
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1 time limit imposed by Rule 72(b), the clerk is directed to set the matter for consideration on  
2 **November 27, 2009**, as noted in the caption.

3 DATED this 4<sup>th</sup> day of November, 2009.  
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7 J. Richard Creatura  
8 United States Magistrate Judge  
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